

any advertisement of wine, if such advertising is in, or is calculated to induce sale in, interstate or foreign commerce, or is disseminated by mail, unless such advertisement is in conformity with §§ 4.60–4.65 of this part. Provided, that such sections shall not apply to outdoor advertising in place on September 7, 1984, but shall apply upon replacement, restoration, or renovation of any such advertising; and provided further, that such sections shall not apply to a retailer or the publisher of any newspaper, periodical, or other publication, or radio or television broadcast, unless such retailer or publisher or radio or television broadcaster is engaged in business as a producer, rectifier, blender, importer, or wholesaler of wine, directly or indirectly, or through an affiliate.

[T.D. ATF-180, 49 FR 31672, Aug. 8, 1984]

§ 4.61 Definitions.

As used in §§ 4.60 through 4.65 of this part, the term *advertisement* includes any written or verbal statement, illustration, or depiction which is in, or calculated to induce sales in, interstate or foreign commerce, or is disseminated by mail, whether it appears in a newspaper, magazine, trade booklet, menu, wine card, leaflet, circular, mailer, book insert, catalog, promotional material, sales pamphlet, or any written, printed, graphic, or other matter accompanying the container, representations made on cases, billboard, sign, or other outdoor display, public transit card, other periodical literature, publication, or in a radio or television broadcast, or in any other media; except that such term shall not include:

(a) Any label affixed to any container of wine, or any individual covering, carton, or other wrapper of such container which constitute a part of the labeling under provisions of §§ 4.30–4.39 of this part.

(b) Any editorial or other reading material (*i.e.*, news release) in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any permittee, and which is not written by or at the direction of the permittee.

[T.D. ATF-180, 49 FR 31672, Aug. 8, 1984]

§ 4.62 Mandatory statements.

(a) *Responsible advertiser.* The advertisement shall state the name and address of the permittee responsible for its publication or broadcast. Street number and name may be omitted in the address.

(b) *Class, type, and distinctive designation.* The advertisement shall contain a conspicuous statement of the class, type, or distinctive designation to which the product belongs, corresponding with the statement of class, type, or distinctive designation which is required to appear on the label of the product.

(c) *Exception.* (1) If an advertisement refers to a general wine line or all of the wine products of one company, whether by the company name or by the brand name common to all the wine in the line, the only mandatory information necessary is the name and address of the responsible advertiser. This exception does not apply where only one type of wine is marketed under the specific brand name advertised.

(2) On consumer specialty items, the only information necessary is the company name or brand name of the product.

[T.D. 6521, 25 FR 13835, Dec. 29, 1960, as amended by T.D. ATF-180, 49 FR 31672, Aug. 8, 1984]

§ 4.63 Legibility of mandatory information.

(a) Statements required under §§ 4.60 through 4.65 of this part to appear in any written, printed, or graphic advertisement shall be in lettering or type size sufficient to be conspicuous and readily legible.

(b) In the case of signs, billboards, and displays the name and address of the permittee responsible for the advertisement may appear in type size of lettering smaller than the other mandatory information, provided such information can be ascertained upon closer examination of the sign or billboard.

(c) Mandatory information shall be so stated as to be clearly a part of the advertisement and shall not be separated in any manner from the remainder of the advertisement.

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(d) Mandatory information for two or more products shall not be stated unless clearly separated.

(e) Mandatory information shall be so stated in both the print and audiovisual media that it will be readily apparent to the persons viewing the advertisement.

[T.D. ATF-180, 49 FR 31672, Aug. 8, 1984]

§ 4.64 Prohibited practices.

(a) *Restrictions.* The advertisement of wine shall not contain:

(1) Any statement that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific or technical matter tends to create a misleading impression.

(2) Any statement that is disparaging of a competitor's products.

(3) Any statement, design, device, or representation which is obscene or indecent.

(4) Any statement, design, device, or representation of or relating to analyses, standards, or tests, irrespective of falsity, which the appropriate ATF officer finds to be likely to mislead the consumer.

(5) Any statement, design, device, or representation of or relating to any guarantee, irrespective of falsity, which the appropriate ATF officer finds to be likely to mislead the consumer. Money-back guarantees are not prohibited.

(6) Any statement that the wine is produced, blended, bottled, packed, or sold under, or in accordance with, any municipal, State, or Federal Government authorization, law, or regulations; and if a municipal, State, or Federal permit number is stated, the permit number shall not be accompanied by any additional statement relating thereto.

(7) Any statement of bonded winecellar and bonded winery numbers unless stated in direct conjunction with the name and address of the person operating such winery or store-room. Statement of bonded winecellar and bonded winery numbers may be made in the following form: "Bonded Winecellar No. ____," "Bonded Winery No. ____," "B. W. C. No. ____," "B. W. No. ____." No additional reference

thereto shall be made, nor shall any use be made of such statement that may convey the impression that the wine has been made or matured under Government supervision or in accordance with Government specifications or standards.

(8) Any statement, design, device, or representation which relates to alcohol content or which tends to create the impression that a wine:

- (i) Contains distilled spirits; or
- (ii) Is comparable to a distilled spirit; or
- (iii) Has intoxicating qualities.

However, if a statement of composition is required to appear as the designation of a product not defined in these regulations, such statement of composition may include a reference to the type of distilled spirits contained therein. Further, an approved wine label, which bears the statement of alcohol content may be depicted in any advertising media, or an actual wine bottle showing the approved label bearing the statement of alcoholic content may be displayed in any advertising media.

(9) Any word in the brand name or class and type designation which is the name of a distilled spirits product or which simulates, imitates, or creates the impression that the wine so labeled is, or is similar to, any product customarily made with a distilled spirits base.

(b) *Statements inconsistent with labeling.* (1) Advertisements shall not contain any statement concerning a brand or lot of wine that is inconsistent with any statement on the labeling thereof.

(2) Any label depicted on a bottle in an advertisement shall be a reproduction of an approved label.

(c) *Statement of age.* No statement of age or representation relative to age (including words or devices in any brand name or mark) shall be made, except (1) for vintage wine, in accordance with the provisions of § 4.27; (2) references in accordance with § 4.38(f); or (3) use of the word "old" as part of a brand name.

(d) *Statement of bottling dates.* The statement of any bottling date shall not be deemed to be a representation relative to age, if such statement appears without undue emphasis in the